

South Indian Education Society

v.

Nirmal Narayana P. & Others

Y.K. SABHARWAL and D.M. DHARMADHIKARI, JJ.,

(Supreme Court Of India)

Special Leave to Petition (Civil) No. 15699-700 Of 2004 | 05-08-2004

1. Taken on board.

2. Leave granted.

3. Mr. C.M. Shroof, Advocate, takes notice for respondents 1 and 2 in appeal arising out of SLP (C) No. 15699 of 2004 and for respondent 1 in appeal arising out of SLP (C) No. 15700 of 2004. Other respondents shall be served.

4. By the impugned judgment, the High Court of Bombay has directed the appellant to refund the fee that was collected by it from merit category students in excess of Rs. 15,000/- (Rupees fifteen thousand) in respect of the admissions in the academic year 2002-2003. The direction for refund is not confined to the writ petitioners but to all other similarly situated students. The question is regarding interim orders that may be made pending decision of the appeals.

5. Mr. Rohatgi, learned Senior Counsel appearing for the appellant submits that without prejudice to the rights and contentions, which are the subject-matter of these appeals, the appellant would file in this Court an affidavit giving undertaking that in case the appeals are dismissed and the judgment of the High Court is upheld, the amount directed to be refunded by the High Court would be refunded to the students soon after the decision of this Court with such interest as this Court may direct. Having heard learned Counsel for the parties, we are of the view that, as interim measure, the interests of justice would be met if, instead of making refund to the students or their parents in terms of the impugned judgment, an undertaking is given by the appellant as suggested by learned Counsel.

6. In addition, we direct that for the next academic year (2004-2005), the appellant shall not charge any amount in excess of Rs. 15,000/- (Rupees fifteen thousand) and further the said amount should not be recovered from the students and shall be adjusted from the amount in respect whereof undertaking is being given pursuant to this order, subject to the student or the parent of the student giving an undertaking to the college that in case the judgment of the High Court is reversed, payment as directed by this Court would be made to the appellant.

7. The undertaking by the appellant shall be filed within two weeks.